

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP

2 Sean Pak (Cal. Bar No. 219032)

3 seanpak@quinnemanuel.com

4 Amy H. Candido (Cal. Bar No. 237829)

5 amycandido@quinnemanuel.com

6 Matthew S. Warren (Cal. Bar No. 230565)

7 matthewwarren@quinnemanuel.com

8 50 California Street, 22nd Floor

9 San Francisco, California 94111

10 (415) 875-6600

11 (415) 875-6700 (facsimile)

12 Attorneys for Plaintiff GOOGLE INC.

13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA

15 OAKLAND DIVISION

16 GOOGLE INC.,

17 Plaintiff,

18 v.

19 ROCKSTAR CONSORTIUM US LP, and
20 MOBILESTAR TECHNOLOGIES LLC,

21 Defendants.

CASE NO. 13-cv-5933-CW

**DECLARATION OF KRISTIN J.
MADIGAN IN SUPPORT OF GOOGLE
INC.'S OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS OR TRANSFER**

Date: March 13, 2014

Time: 2:00 p.m.

Courtroom: Courtroom 2, Fourth Floor

Judge: Hon. C.J. Claudia Wilken

1 I, Kristin J. Madigan, declare under 28 U.S.C. §1746:

2 1. I am Of Counsel at Quinn Emanuel Urquhart & Sullivan, LLP, counsel for plaintiff
3 Google Inc. (“Google”) in this action. I submit this declaration in support of Google’s
4 Opposition to Defendants’ Motion to Dismiss or Transfer. I have personal knowledge of the
5 following facts, and would competently testify to them if called upon to do so.

6 2. Attached hereto as Exhibit 1 is a true and correct copy of Ian Austen, *Nortel Seeks*
7 *Bankruptcy Protection*, N.Y. Times, January 14, 2009.

8 3. Attached hereto as Exhibit 2 is a true and correct copy of Hugo Miller and Andrew
9 Mayeda, *Made-in-Canada Solution For BlackBerry Avoids Nortel Fate*, Bloomberg, August 13,
10 2013.

11 4. Attached hereto as Exhibit 3 is a true and correct copy of *Nortel Files for*
12 *Bankruptcy*, Silicon Valley Business Journal, January 14, 2009.

13 5. Attached hereto as Exhibit 4 is a true and correct copy of a Voluntary Petition for
14 Bankruptcy filed in *Nortel Networks Inc., et al.*, No. 09-10138 (D. Del. Jan. 14, 2009) (Dkt. No.
15 1).

16 6. Attached hereto as Exhibit 5 is a true and correct copy of the Order Authorizing
17 and Approving (A) The Sale of Certain Patent and Related Assets Free And Clear of All Claims
18 and Interests, (B) The Assumption and Assignment of Certain Executory Contracts, (C) The
19 Rejection of Certain Patent Licenses and (D) The License Non-Assignment and Non-Renewal
20 Protections, *Nortel Networks Inc., et al.*, No. 09-10138 (D. Del. July 11, 2011) (Dkt. No. 5935).

21 7. Attached hereto as Exhibit 6 is a true and correct copy of Debtors’ Motion for
22 Orders (I)(A) Authorizing Debtors’ Entry Into the Stalking Horse Asset Sale Agreement (B)
23 Authorizing and Approving the Bidding Procedures and Bid Protections, (C) Approving the
24 Notice Procedures and the Assumption and Assignment Procedures, (D) Approving the License
25 Rejection Procedures, (E) Approving a Side Agreement, (F) Authorizing the Filing of Certain
26 Documents Under Seal and (G) Setting A Date for the Sale Hearing and (II) Authorizing and
27 Approving (A) The Sale of Certain Patents and Related Assets Free and Clear of All Claims and
28 Interests, (B) The Assumption and Assignment of Certain Executory Contracts, (C) The

1 Rejection of Certain Patent Licenses and (D) The License Non-Assignment and Non-Renewal
2 Protections, *Nortel Networks Inc., et al.*, No. 09-10138 (D. Del. April 4, 2011) (Dkt. No. 5202).

3 8. Attached hereto as Exhibit 7 is a true and correct copy of Robert McMillan, *How*
4 *Apple and Microsoft Armed 4,000 Patent Warheads*, Wired Enterprise, May 21, 2012.

5 9. Attached hereto as Exhibit 8 is a true and correct copy of the Certificate of Limited
6 Partnership of Rockstar Bidco, LP.

7 10. Attached hereto as Exhibit 9 is a true and correct copy of a document titled Apple
8 Inc. Form 10-Q Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act
9 of 1934 for the quarterly period ended June 25, 2011.

10 11. Attached hereto as Exhibit 10 is a true and correct copy of an excerpt from the ip-
11 rockstar.com website page titled "Corporate Leaders."

12 12. Attached hereto as Exhibit 11 is a true and correct copy of *IPBC 2012: Interview*
13 *With John Veschi* (June 26, 2012), available at [http://www.ipbusinesscongress.com/2012](http://www.ipbusinesscongress.com/2012/audiovideo/VideoDetail.aspx?g=4c4cf910-ec43-4df3-89c9-bdaafe1802b6%20)
14 [/audiovideo/VideoDetail.aspx?g=4c4cf910-ec43-4df3-89c9-bdaafe1802b6%20](http://www.ipbusinesscongress.com/2012/audiovideo/VideoDetail.aspx?g=4c4cf910-ec43-4df3-89c9-bdaafe1802b6%20).

15 13. Attached hereto as Exhibit 12 is a true and correct copy of Joff Wild, *Star Man*,
16 Intellectual Asset Management, July/August 2013, available at [http://www.ip-](http://www.ip-rockstar.com/Press_Releases/IAM%20Rockstar%20Article%20JulyAugust%202013.pdf)
17 [rockstar.com/Press_Releases/IAM%20Rockstar%20Article%20JulyAugust%202013.pdf](http://www.ip-rockstar.com/Press_Releases/IAM%20Rockstar%20Article%20JulyAugust%202013.pdf).

18 14. Attached hereto as Exhibit 13 is a true and correct copy of an excerpt from the ip-
19 rockstar.com website page titled "About Rockstar."

20 15. Attached hereto as Exhibit 14 is a true and correct copy of an excerpt from the
21 United States Patent And Trademark Office website (www.uspto.gov/assignments) "Patent
22 Assignment Assignor Details" for Rockstar Bidco, LP.

23 16. Attached hereto as Exhibit 15 is a true and correct copy of the Certificate of
24 Limited Partnership of Rockstar Consortium US LP.

25 17. Attached hereto as Exhibit 16 is a true and correct copy of Robert McMillan,
26 *Facebook Infringes My Patents Too, Says CEO Who Just Sued Google*, Wired Enterprise,
27 November 1, 2013.

28

1 18. Attached hereto as Exhibit 17 is a true and correct copy of Exhibits Q-U to Docket
2 No. 1, *Charter Communications v. Rockstar et. al.*, No. 14-0055 (D. Del. Jan. 17, 2014).

3 19. Attached hereto as Exhibit 18 is a true and correct copy of an excerpt from the ip-
4 rockstar.com website page titled “Innovation.”

5 20. Attached hereto as Exhibit 19 is a true and correct copy of website pages from
6 www.LinkedIn.com for thirty-three individuals who include “Rockstar Consortium” as their
7 current employer.

8 21. Attached hereto as Exhibit 20 is a true and correct copy of the Certificate of
9 Formation of MobileStar Technologies LLC.

10 22. Attached hereto as Exhibit 21 is a true and correct copy of excerpts from the
11 following websites:

12 <http://commercial.asus.com>

13 <http://www.htc.com/us>

14 <http://www.huaweideviceusa.com>

15 <http://www.lg.com/us>

16 <http://www.pantechusa.com>

17 <http://www.samsung.com/us>

18 <http://www.zteusa.com>

19 23. Attached hereto as Exhibit 22 is a true and correct copy of Joff Wild, *Rockstar*
20 *CEO says he would not bet against further suits to follow those issued last week*, IAM Magazine,
21 November 4, 2013, available at [http://www.ip-rockstar.com/Press_Releases/First](http://www.ip-rockstar.com/Press_Releases/First%20enforcement%20actions%20%E2%80%93%20Intellectual%20Asset%20Management.pdf)
22 [%20enforcement%20actions%20%E2%80%93%20Intellectual%20Asset%20Management.pdf](http://www.ip-rockstar.com/Press_Releases/First%20enforcement%20actions%20%E2%80%93%20Intellectual%20Asset%20Management.pdf).

23 24. Attached hereto as Exhibit 23 is a true and correct copy of a website page from
24 www.LinkedIn.com for Michael Dunleavy.

25 25. Attached hereto as Exhibit 24 is a true and correct copy of Joe Mullen, *Patent war*
26 *goes nuclear: Microsoft, Apple-owned “Rockstar” sues Google*, www.Arstechnica.com, October
27 31, 2013.

28

1 26. Attached hereto as Exhibit 25 is a true and correct copy of R.S. Analytics,
2 *Apple/Microsoft's 'Rockstar Consortium' Attack Google And Android - Who Could Benefit?*,
3 Seeking Alpha, November 4, 2013.

4 27. Attached hereto as Exhibit 26 is a true and correct copy of Ashby Jones, *Patent*
5 *Wars Erupt Again in Tech Sector*, The Wall Street Journal, November 3, 2013.

6 28. Attached hereto as Exhibit 27 is a true and correct copy of an excerpt from the
7 California Secretary of State website (www.sos.ca.gov) "Business Entity Detail" for Nortel
8 Networks Data Networking Association.

9 29. Attached hereto as Exhibit 28 is a true and correct copy of *Rockstar Summer 2012*
10 *Sales Prospects Selected Asset Catalogue* available at www.ip-rockstar.com/patent-sales.

11 30. Attached hereto as Exhibit 29 is a true and correct copy of a July 29, 2013 press
12 release, *Spherix Closes Rockstar Patent Acquisition Transaction And Enhances Its Patent*
13 *Portfolio in Wireless Communications and Telecommunications Sectors- Rockstar Acquires*
14 *Equity Stake in Spherix-Venture to be Headed by Seasoned Monetization Executive*, available at
15 www.ip-rockstar.com/about.

16 31. Attached hereto as Exhibit 30 is a true and correct copy of *Bloomberg TV: Apple*
17 *& Microsoft Team Up to Be Patent Rockstars* (January 6, 2014), available at
18 [http://www.bloomberg.com/video/apple-microsoft-team-up-to-be-patent-rockstars-](http://www.bloomberg.com/video/apple-microsoft-team-up-to-be-patent-rockstars-3L5OUxO4Qmae5Zudy3t_lw.html)
19 [3L5OUxO4Qmae5Zudy3t_lw.html](http://www.bloomberg.com/video/apple-microsoft-team-up-to-be-patent-rockstars-3L5OUxO4Qmae5Zudy3t_lw.html).

20 32. Attached hereto as Exhibit 31 is a true and correct copy of an excerpt from Walter
21 Isaacson, *Steve Jobs*, 512 (Simon & Schuster 2011).

22 33. Attached hereto as Exhibit 32 is a true and correct copy of the Certificate of
23 Formation of Rockstar Consortium LLC.

24 34. Attached hereto as Exhibit 33 is a true and correct copy of a website page from
25 www.LinkedIn.com for Andrew Hennigar.

26 35. Attached hereto as Exhibit 34 is a true and correct copy of a website page
27 www.newsroom.fb.com/Key-Facts.

28

By /s/ Kristin J. Madigan
Kristin J. Madigan

/s/ Matthew S. Warren
Matthew S. Warren